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Dee May
Director
Federal Regulatory Issues

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NYNEX

March 29, 1996

Ex Parte

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, NW Room 222
Washington, DC 20554

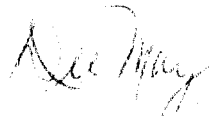
RECEIVED
MAR 29 1996
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Re: CC 93-162 Expanded Interconnection

Dear Mr. Caton:

Please find attached a written ex parte sent to Mr. Paul D'Ari in response to questions regarding the terms and conditions contained in NYNEX's Expanded Interconnection tariff. If you have any questions, please feel free to contact me.

Sincerely,



cc: P. D'Ari
K. Gude
C. Fox
R. Keeney
W. Kirchick
K. Levitz
R. Metzger
G. Matisse
J. Schlichting



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Dee May
Director
Federal Regulatory Issues



March 29, 1996

Mr. Paul D'Ari
Tariff Division-Common Carrier Bureau
Federal Communications Commission
Room 515
1919 M Street, NW
Washington, DC 20554

Mr. D'Ari,

Please find below our responses to the questions you raised regarding the terms and conditions contained in NYNEX's Expanded Interconnection tariff.

SPACE MINIMUM AND MAXIMUM:

It is NYNEX's intent to meet future requests for interconnection through physical collocation arrangements. At this time, the existing arrangements provided under NYNEX's interstate and intrastate collocation tariffs, adequately meet the needs of competitors identified to date. NYNEX's experience shows that the minimum and maximum square footage requirements have proved adequate in meeting every request for collocation received, while enabling NYNEX to conserve space in its central offices so that future requests for space may also be fulfilled. NYNEX prefers to maintain minimum and maximum space requirements in the space regulations, rather than develop warehousing rules designed to reclaim inefficiently used space which could be a very contentious and needless process.

NODE CAPACITY:

Based on calculations using older technology and state of the art technology, a 400 square foot multiplexing node is capable of providing anywhere between 16,000 and 90,000 DS1 terminations.

NON-PAYMENT CLAUSE:

NYNEX's tariff does not specifically address bankruptcy, but rather addresses non-payment and outlines the steps NYNEX will follow when any customer is delinquent in paying its bills. The NYNEX tariff Section 28, Expanded Interconnection, refers to the provisions for non-payment in Section 2.1, General Regulations. There are two different answers to this question, depending on the status of bill payment.

1) If an interconnector were to declare bankruptcy and continues to pay its bills, the customer may assign or transfer the service to another interconnector, subject to the provisions of Section 2.1.2(A), Limitations (Refer to FCC tariff pages 2-1 and 2-2 for applicable regulations).

2) If an interconnector were to declare bankruptcy and discontinue payment, NYNEX may, on thirty (30) days' written notice by Certified US Mail, notify the customer of non-compliance, refuse additional applications for service and/or refuse to complete any pending orders for service from the non-compliant customer, subject to the provisions of Section 2.1.8, Refusal and Discontinuance of Service (Refer to tariff pages 2-8 and 2-9 for applicable regulations).

INSURANCE:

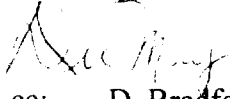
The NYNEX Expanded Interconnection Tariff requires a \$2M Comprehensive General Liability Coverage and \$5M Umbrella/Excess Liability requirement for our Expanded Interconnection arrangement. The \$2m was based on what we require of NYNEX contractors. The \$5M Umbrella was required due to the additional risk associated with the fact that collocators are in our offices 365 days a year, 24 hours a day, whereas NYNEX vendors come in for a specific job, then leave.

LIABILITY AND DAMAGES:

The reason that we hold the collocator responsible for simple negligence, while we are responsible for only gross negligence or willful misconduct, is simple. Since expanded interconnection is a service, it is subject to the same tariff provisions as other telecommunications services regarding our liability. Our interstate access tariff states that we are only liable for gross negligence or willful misconduct relating to our provision of access services. To my knowledge, all telecommunications carriers have similar limitations in their tariffs, and these limitations have been respected by the FCC and the courts. *See, e.g., Halpert & Co. v. New York Telephone, et al.*, 6 FCC Rcd 2548 (1991). However, even though the collocator also is a carrier, we are not purchasing its telecommunications services, and we are not subject to any liability limitations in its tariff. The collocator is like a tenant who is renting space in our building. We are requiring it to assume the same liability a landlord normally imposes on a tenant, and that we impose on other tenants in our central office buildings (like banks and retail stores). Tenants are responsible for ordinary negligence, because they are occupying space and conducting business in our buildings, and because a tenant's negligence can cause catastrophic damage to our building and to our customers. For this reason, it is reasonable to impose the same duty of care on the collocator that we impose on any other tenant.

Please do not hesitate to call if you have any questions or require additional information.

Sincerely,



cc: D. Bradford
K. Gude
W. Kirchick